

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTHONY KINARD,
Plaintiff,

v.

JOHN S. RUBITSCHUN ET AL.,
Defendants.

Case No. 05-74131
Honorable Patrick J. Duggan

OPINION AND ORDER

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on July 24, 2007.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

Plaintiff, a former state prisoner, filed this *pro se* civil rights action against Defendants on October 28, 2005. On February 1, 2007, Plaintiff moved for a temporary restraining order and/or a preliminary injunction. In his motion, Plaintiff asserts that Defendants working at the Chippewa Correctional Facility have been retaliating against him by interfering with his legal mail and he asks the Court to enjoin Defendants from “censoring, stealing, opening, reading, and withhold[ing]” his incoming and outgoing legal mail. Plaintiff filed a supplemental brief in support of his motion on February 17, 2007, and a “Second Addendum” on March 1, 2007. This Court has referred all pretrial matters in this action to Magistrate Judge Steven D. Pepe.

On June 28, 2007, Magistrate Judge Pepe filed his Report and Recommendation (R&R) recommending that this Court deny Plaintiff’s motion for preliminary injunction

and temporary restraining order. Magistrate Judge Pepe concludes that the subject matter of Plaintiff's motion is unrelated to his underlying cause of action and is moot because Plaintiff apparently is no longer housed at the Chippewa Correctional Facility. At the conclusion of the R&R, Magistrate Judge Pepe advises the parties that any objection to the R&R must be filed within ten days of service upon them. (R&R at 2.) He further specifically advises the parties that "[f]ailure to file objections within the specified time constitutes a waiver of any further right of appeal." (*Id.* (citing *Thomas v. Arn*, 474 U.S. 140, 147-48 (1985); *Ivey v. Wilson*, 832 F.2d 950, 957-58 (6th Cir. 1987); *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981).) Neither party filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Pepe.

Accordingly,

IT IS ORDERED, that Plaintiff's motion for preliminary injunction and/or motion for temporary restraining order is **DENIED**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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Magistrate Judge Steven D. Pepe